



Telecommunications  
Law Professionals PLLC

875 15th Street, NW, Suite 750  
Washington, DC 20005  
telephone 202.789.3120  
facsimile 202.789.3112  
www.telecomlawpros.com

cnorthrop@telecomlawpros.com  
202.789.3113

January 27, 2012

**BY ELECTRONIC COMMENT FILING SYSTEM**

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, D.C. 20554

Re: Developing an Unified Intercarrier Compensation Regime et al. – WC Docket No. 10-90; GN Docket No. 09-51; WC Docket No. 07-135; WC Docket No. 05-337; CC Docket No. 01-92; CC Docket No. 96-45; WC Docket No. 03-109; WT Docket No. 10-208

Dear Ms. Dortch:

On January 25, 2012, Mark A Stachiw, Vice Chairman, General Counsel & Secretary of MetroPCS Communications, Inc. ("MetroPCS"), along with Carl W. Northrop and Michael Lazarus of Telecommunications Law Professionals PLLC ("TLP"), met with Michael Steffen of the Chairman's office, and Victoria Goldberg and Rebekah Goodheart, both of the Wireline Competition Bureau, in connection with the above-referenced proceedings. The oral presentation made during this conference was consistent with the pleadings and ex partes filed on behalf of MetroPCS in the above-referenced proceedings.

MetroPCS commended the Commission for its hard work and effort on this first step to comprehensively reform both the intercarrier compensation system and the universal service fund. MetroPCS also urged, consistent with its pending Petition for Clarification and Limited Reconsideration, that the Commission clarify on certain aspects of the Commission's Universal Service Fund/Intercarrier Compensation Reform Order (the "Order") relating to traffic pumping.<sup>1</sup>

---

<sup>1</sup> In the Matter of Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing an Unified Intercarrier Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link-Up; Universal Service Reform – Mobility Fund, WC Docket Nos. 10-90, 07-135, 05-337, 03-109, GN Docket No. 09-51, CC Docket Nos. 01-92, 96-45, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161 (rel. Nov. 18, 2011) (the "Order").

MetroPCS discussed with the Commission that its requests were only clarifications since they fit within the policy goals advanced by the Commission, and MetroPCS urged the Commission to adopt a number of its clarifications immediately, in an abundance of caution, to ensure that traffic pumpers are unable to exploit potential loopholes that may exist in the Order. MetroPCS believes that such clarifications should be made outside of the context of the significant amount of other intercarrier compensation issues facing the Commission because its requests were in the nature of closing loopholes rather than requesting the Commission change its policies. First, MetroPCS requested clarification on the definition of an "access revenue sharing agreement." MetroPCS supports a definition that is broadly construed so that the prohibited arrangements are not limited solely to those in which the revenue payment is tied directly to the amount of billings or collections of access charges, but includes an arrangement in which a third party receives any compensation for activities which result in traffic stimulation. MetroPCS warned that without such a clarification, traffic stimulators may be able to evade the rule by adopting fixed fee arrangements that fall outside of the exact scope of the Commission's rules.

Second, MetroPCS requested clarification from the Commission that the access stimulation definition extend to third-party arrangements not only with the terminating LEC, but also with any affiliate of the terminating LEC. MetroPCS expressed the importance of this clarification, as arbitrageurs involved in traffic pumping schemes have been known to set up affiliated shell companies to conceal such practices and their economic effects.

Third, MetroPCS requested clarification on the manner in which the 3:1 traffic imbalance ratio to determine traffic pumping in the interstate context will be applied, in order to deter foreseeable approaches unprincipled carriers may take to evade this prong of the traffic pumping test. MetroPCS expressed support for the understanding that a carrier cannot defeat the 3:1 test merely by offsetting a one-way business plan in one discrete line of business that generates high volumes of inbound traffic against a separate and distinct one-way business plan in a different discrete line of business that generates high volumes of outbound traffic only. MetroPCS maintained that traffic should be placed in categories (e.g., reciprocal traffic, intraMTA/intraLATA, and interstate) and each needed to be viewed separately. MetroPCS firmly believes that the above three clarifications will serve to uphold the Commission's intent to eliminate traffic pumping, and that such clarifications should be adopted immediately in order to avoid potential arbitrage situations.

Lastly, MetroPCS warned that there is a gap in the Commission's reforms that will encourage arbitrageurs to apply their traffic pumping schemes to the intrastate, interMTA segment of the market – which the Commission did not address in the context of its new traffic pumping rules. MetroPCS related to the Commission that it has already seen traffic pumpers begin to migrate their services to this unregulated segment of the market, and therefore urges the Commission to apply its traffic pumping rules to intrastate traffic, including interMTA traffic.

Any questions regarding this notice should be directed to the undersigned.

Ms. Marlene H. Dortch  
January 27, 2012  
Page 3

Sincerely,

/s/ Carl W. Northrop

Carl Northrop  
of TELECOMMUNICATIONS LAW PROFESSIONALS PLLC

cc (via email): Michael Steffen  
Victoria Goldberg  
Rebekah Goodheart